

ZONING CHANGE REVIEW SHEET

CASE: C14-2008-0250 – St. Cecilia Hotel

P.C. DATE: February 10, 2009

CC DATE: February 26, 2009

ADDRESS: 112 Academy Drive

OWNER/APPLICANT: 112 Academy, LLC

AGENT: Brown McCarroll, LLP (Andy Martin)

ZONING FROM: GR-H-NCCD-NP

TO: CS-1-H-NCCD

AREA: 581 square feet (see Exhibit A)

SUMMARY STAFF RECOMMENDATION: Staff recommends approval of CS-1-H-NCCD-NP (Commercial-Liquor Sales-Historic Combining District-Neighborhood Conservation Combining District-Neighborhood Plan Combining District zoning).

PLANNING COMMISSION RECOMMENDATION: February 3, 2009 – approved 9-0 on consent agenda.

DEPARTMENT COMMENTS: The request is for the approval of liquor sales for 581 square feet of the existing St. Cecilia hotel located on Academy Drive. The St. Cecilia Hotel has the approval of the South River City Citizens Neighborhood Association by a private restrictive covenant for food and beverage service “only if the charge for that service is paid by the hotel guest as an additional charge included with and collected at the time of payment for the hotel room occupied by the guest. Neither food nor beverage service may be provided to anyone other than a hotel guest and his or her invitees” (see Exhibit B).

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR-H-NCCD-NP	Hotel
<i>North</i>	CS, CS-1	Austin Music Hall
<i>South</i>	CS-MU, MF-4-NCCD-NP	Apartments
<i>East</i>	MF-4-NCCD-NP	Apartments
<i>West</i>	CS-MU-NCCD-NP	Apartments

NEIGHBORHOOD PLAN: South River City Citizens Neighborhood Plan

TIA: Waived

WATERSHED: East Bouldin Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

South River City Citizens Neighborhood Association
South Central Coalition
Austin Neighborhoods Council
Terrell Lane Interceptor Association
Barton Springs/Edwards Aquifer Conservation District

SCHOOLS:

Galindo Elementary School
Fulmore Middle School
Travis High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-2007-0056	MF-4-H-NCCD-NP to GR-H-CO-NCCD-NP	5/22/07 Approved staff recommendation for GR-H-CO-NCCD-NP	6/29/07 Approved Ordinance 20070621-129 for GR-H-NCCD-NP (7-0); all 3 readings
NPA-07-0022.01	FLUM multifamily to FLUM commercial	5/27/07 APVD staff recommendation by consent (8-0)	6/29/07 Approved Ordinance 20070621-128 for commercial use on FLUM (7-0); all 3 readings

BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

CS-1 is intended predominately for commercial and industrial activities of a service nature. Staff feels that St. Cecilia Hotel is appropriate for CS-1 district zoning.

2. *Zoning should allow for reasonable use of the property.*

The addition of a CS-1 footprint to an existing Hotel is an appropriate and reasonable use of this property.

EXISTING CONDITIONS

ENVIRONMENTAL

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the East Bouldin Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

According to flood plain maps, there is no flood plain within the project area.

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Water and Wastewater

If the landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and or abandonments required. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the

tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

TRANSPORTATION:

No additional right-of-way is needed at this time.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

However, it is recommended development continue to be limited through a conditional overlay to less than 300 vehicle trips per day.

Existing Street Characteristics:

NAME	ROW	PAVEMENT	CLASSIFICATION	SIDEWALKS	BUS ROUTE	BIKE ROUTE
Academy Drive	60'	34'	Collector	Yes	No	No

SITE PLAN

Site plans will be required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

A conditional use permit will be required for the cocktail lounge.

CITY COUNCIL DATE: 2/26/09

ACTION:

ORDINANCE READINGS: 1st

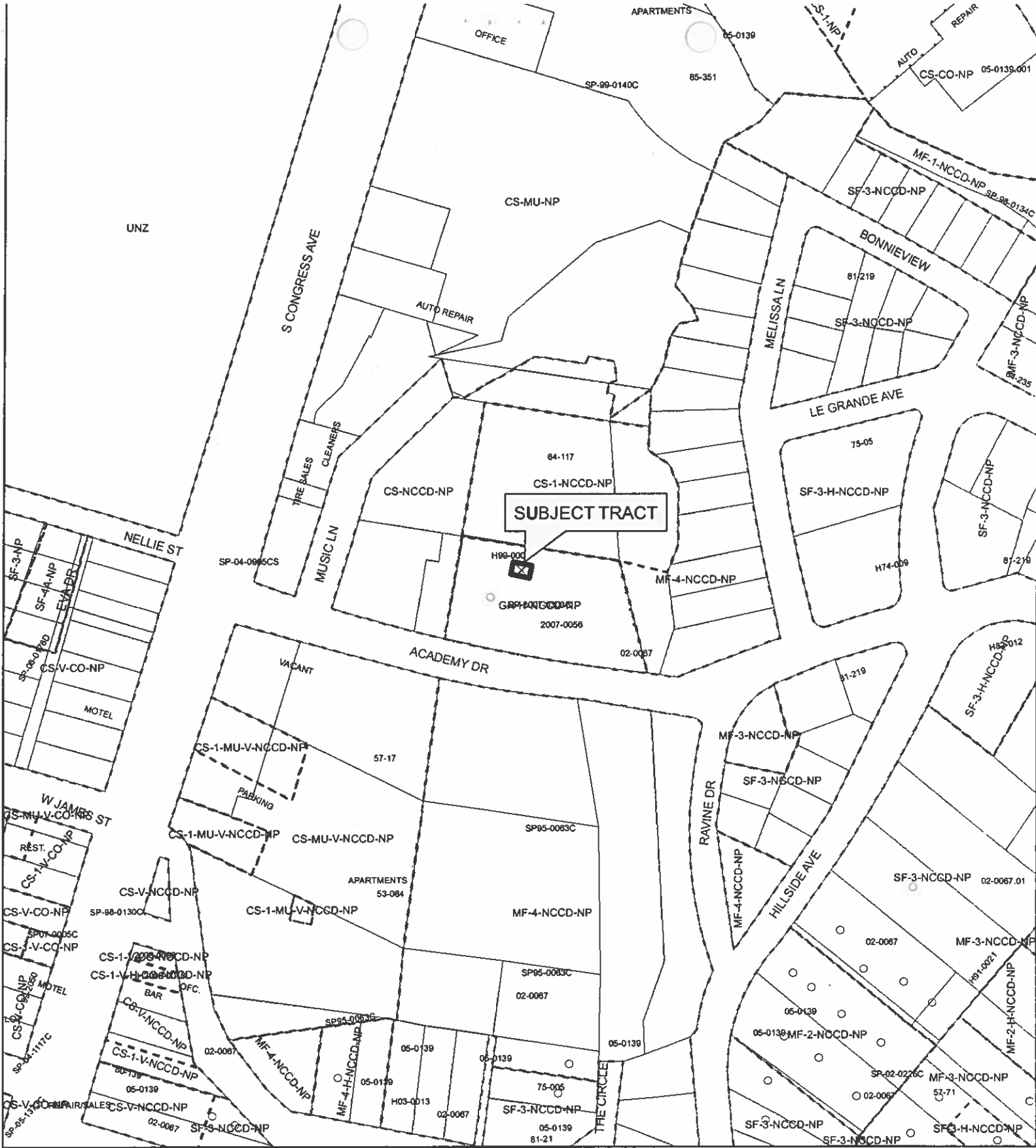
2nd





3rd

ORDINANCE NUMBER:

CASE MANAGER: Stephen Rye

PHONE: 974-7604
stephen.rye@ci.austin.tx.us




 **SUBJECT TRACT**
 **ZONING BOUNDARY**
 **PENDING CASE**

ZONING
 ZONING CASE#: **C14-2008-0250**
 ADDRESS: **112 ACADEMY DR**
 SUBJECT AREA: **0.01 ACRES**
 GRID: **J21**
 MANAGER: **C. PATTERSON**

OPERATOR: S. MEEKS



1" = 200'

This map has been produced by G.I.S. Services for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Exhibit to Rezoning Application for portion of 112 Academy (Saint Cecilia Hotel)

Area to be rezoned to CS-1-H-NCCD-NP is outlined by pink highlighting.

Approximately 518 square feet for use as a cocktail
lounge restricted to hotel guests only

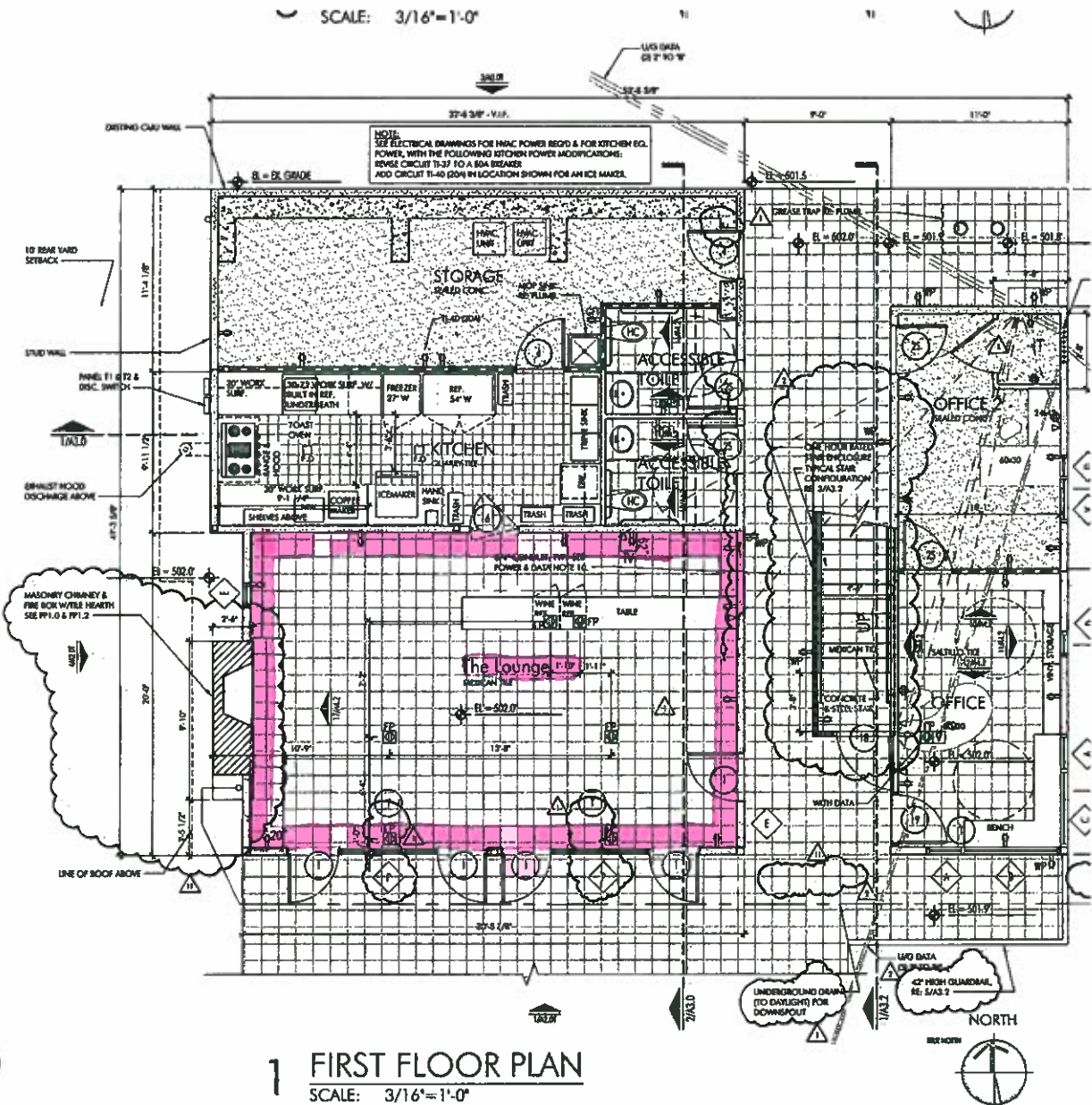


Exhibit A

**RESTRICTIVE COVENANT**

This Restrictive Covenant (the "Restrictive Covenant") is made to be effective the date set forth below (the "Effective Date") by 112 Academy, LLC, a Texas limited liability company ("Owner"). It is the express intent of Owner that this Restrictive Covenant shall run with the land, is for the benefit of the South River City Citizens Association (hereinafter, "SRCCA") and its successor organizations and its members and is enforceable by SRCCA and its members.

RECITALS:

1. In 1986, the City Council adopted the Fairview Park Neighborhood Plan proposed by the South River City Citizens neighborhood association and created the Fairview Park Neighborhood Conservation Combining District (NCCD) to implement the goals and policies of the Fairview Park Neighborhood Plan.

2. In 2005, the City Council adopted the Greater South River City Combined Neighborhood Plan as Section 5-22 of the Comprehensive Plan. The Greater South River City Combined Neighborhood Plan includes the area designated as the Fairview Park NCCD. The City Council by separate ordinance amended the zoning map to establish a neighborhood plan (NP) combining district for property in the Greater South River City Combined Neighborhood Plan.

3. Among the Goals, Objectives, and Recommendations adopted as a part of the Greater South River City Combined Neighborhood Plan were the following:

Goal (A): Maintain the historic fabric and respect the established neighborhood character and natural assets.

Objective: Protect historic resources including buildings, bridges, gateways and other structures.

Recommendation A6: Continue to regularly monitor and amend the Fairview Park Neighborhood Conservation Combining District (NCCD) (Figure 7.8) to address unforeseen consequences, changing situations, and appropriate land use changes.

4. Owner is the owner of 1.0468 acres of land, more or less, at the street address of 112 Academy, in the City of Austin, Travis County, Texas, more particularly described as follows:

All of Block 72, Fairview Park Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat

EXHIBIT B

Book 1, Page 46, of the Plat Records of Travis County, Texas (the "Property").

5. In 1999, the City Council rezoned the Miller-Crockett House and the Property on which it is located to a Historic Landmark ("H") combining district. The Property was again rezoned in 2003 to be included in the Fairview Park NCCD. The base zoning district for the Miller-Crockett House is currently Multi-Family Residence Moderate High Density ("ME-4"), but the Property has been used and operated as a bed and breakfast since 1995.

6. The Future Land Use Map ("FLUM") adopted by the City Council as Figure 7.3 in the Greater South River City Combined Neighborhood Plan indicates the future land use of the Property to be "multi-family."

7. The expressed goal of maintaining and protecting the Miller-Crockett House, a significant and important historic resource in the Fairview Park neighborhood, is advanced by amending the FLUM of the Greater South River City Combined Neighborhood Plan to change the projected future use of the Property to a use that is more appropriate and commercially viable, but that is restricted and limited by the proposed rezoning ordinance, a public restrictive covenant benefiting the City of Austin, and this Restrictive Covenant. These proposed changes will increase the available resources and economic value needed to maintain this historic building.

8. Amending the Fairview Park NCCD to allow use of the Miller-Crockett House and of the remainder of the Property for a small hotel that respects the established neighborhood character is an appropriate land use change for this site and the Fairview Park neighborhood.

9. Owner has filed a rezoning application (Zoning Case No. C14-2007-0056, the "Application") with the City of Austin for the purpose of rezoning the Property to authorize a hotel/motel use at the site.

10. Owner has sought the support of the SRCCA for the Application.

11. Owner has agreed to impose upon the Property those covenants and conditions for the mutual benefit of the Property, Owner, and SRCCA.

12. In reliance upon this Restrictive Covenant to impose these covenants and conditions, SRCCA has agreed to not object to the Application.

NOW, THEREFORE, for the consideration set forth in Paragraphs 10 and 11 above, the receipt and sufficiency of which is hereby acknowledged, Owner does hereby impose the following obligations, restrictions and covenants upon the Property (collectively, the "Restrictions"), and Owner shall hold, sell and convey the Property subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

Restrictions:

1. Owner may establish as a lawful accessory use on the Property any accessory use authorized by Sec. 25-2-894 (Accessory Uses for a Principal Commercial Use) of the Austin City Code, including but not limited to food and beverage service provided to a hotel guest, but only if the charge for that service is paid by the hotel guest as an additional charge included with and collected at the time of payment for the hotel room occupied by the guest. Neither food nor beverage service may be provided to anyone other than a hotel guest and his or her invitees. The number of hotel guests and invitees who may be provided food or beverage service at any one time may not exceed the maximum number of attendees at a gathering held at the Property established by subsection (2). Food and beverage service provided to a hotel guest and his or her invitees in compliance with this section shall never be considered or deemed to be a restaurant use or a cocktail lounge use, as those two specified uses are prohibited uses whether they are principal uses or accessory uses.

2. The maximum number of attendees at a gathering held at the Property equals four times the total of the number of parking spaces on the Property; provided, however, that this attendance restriction does not apply to a gathering when off-site valet parking is provided and no more than two such gatherings are held at the Property during any twelve-month period. Amplified live outdoor sound is prohibited at any gathering. A gathering must end at or before 10:00 p.m. on Sunday through Thursday and at or before 11:00 p.m. on Friday and Saturday.

3. This Restrictive Covenant and the restrictions, covenants, benefits and obligations created hereby are benefits and servitudes running with the land and shall inure to the benefit of the Owner, SRCCA, and their respective members, heirs, representatives, lessees, successors, and assigns and shall be binding upon the Owner, and its heirs, representatives, lessees, successors and assigns.

4. If the Owner shall violate or attempt to violate this agreement and covenant, SRCCA and its members or a successor organization may prosecute proceedings at law or in equity against the Owner to prevent such actions and to collect damages for such actions. The parties agree a court may award court costs, reasonable litigation expenses, and reasonable attorney's fees incurred by the prevailing party in any such action.

5. If any part of this Restrictive Covenant or any of the foregoing covenants is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Restrictive Covenant, and such remaining portion of this Restrictive Covenant shall remain in full effect.

6. If at any time SRCCA or any of its members fails to enforce this Restrictive Covenant, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

7. This Restrictive Covenant may be modified, amended, or terminated only by joint written action of both (a) SRCCA, and (b) the owner(s) of the Property, or the portion thereof subject to the modification, amendment or termination, at the time of such modification, amendment or termination.

8. All notices required shall be in writing addressed to the respective parties as set forth below, unless another address shall have been designated by written notice delivered to the other party in accordance with this subsection, and shall be delivered by personal delivery, or by registered or certified mail, to the parties as follows:

If to SRCCA, to:

South River City Citizens Association
Attn: Jean Mather, President
1611 Alameda
Austin, Texas 78704

If to Owner, to:

Greg Marchbanks, Manager
112 Academy, LLC
600 Congress Avenue, Suite 200
Austin, Texas 78701
(512) 457-8820

9. The laws of the State of Texas shall govern this Restrictive Covenant. Venue for all purposes shall be Travis County, Texas.

EXECUTED this the 30th day of July, 2007 (the "Effective Date").

OWNER:

112 ACADEMY, LLC
a Texas limited liability company


Gregory Marchbanks, Manager

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

This instrument was acknowledged before me on the 30th day of July, 2007, by Gregory Marchbanks, Manager of 112 Academy, LLC, a Texas limited liability company, on its behalf.

Mary Walker
NOTARY PUBLIC, State of Texas



AGREED AND ACCEPTED:

SOUTH RIVER CITY CITIZENS ASSOCIATION

By: Jean Allen Mather

Printed name: JEAN ALLEN MATHER

Title: President SRCC
South River City Citizens

Respectful Memorandum - At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2007 Aug 19 03:21 PM 2007149591

CLARKNEY \$32.00

DANA DEBEAUVOIR COUNTY CLERK
TRAVIS COUNTY TEXAS

Return:

Andrew Martin

Brown McCampbell, LLP

111 Congress Ave, Suite 1400 Page 5 of 5
Austin, TX 78701

EXHIBIT 3

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.ci.austin.tx.us/development

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2008-0250

112 Academy Dr.

Contact: Steve Rye, 512-974-7604

Public Hearing:

February 10, 2009 Planning Commission

Your Name (please print)

Jana C. McElroy

☐ I am in favor
☒ I object

Your address(es) affected by this application

1808 Hillside Ave.

Signature

Date

Comments: I should have objected over the

construction, but was lazy. That laziness got me a year of large equipment going up and down my street. It was used as a shortcut.

At least I knew the construction would one day subside.

However being the "music capital" means wherever liquor is sold there is also music. If not room inside the house, outside and in my backyard either way.

I have lived in this home since I was born. "Congress and its businesses & music need to stay on Congress. That's really it. If you use this form to comment, it may be returned to: Close enough. I City of Austin hear the music just not in my backyard. Neighborhood Planning and Zoning Department

Steve Rye, J

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C14-2008-0250

Contact: Steve Rye, 512-974-7604

Public Hearing:

February 10, 2009 Planning Commission

Marcella H Gaffrey

Your Name (please print)

☐ I am in favor
☒ Object

201 Academy dr Apt 104

Your address(es) affected by this application

Marcella H Gaffrey

Signature

02/03/2009

Date

Comments: I am against this due to the reason,
that there are already locations near area
area which sell alcohol. I sincerely believe
that there is no need to install another
bar, tavern, such as there exist already a
high rate of violence and accidents due
to this substance consumption in the
commercial area).

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Steve Rye, j

P. O. Box 1088

Austin, TX 78767-8810

PUBLIC HEARING INFORMATION

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Case Number: C14-2008-0250

Contact: Steve Rye,, 512-974-7604

Public Hearing:

February 10, 2009 Planning Commission

Joe Avriagun

Your Name (please print)

1110 Woodland Avenue

Your address(es) affected by this application

Joe Avriagun

Signature

Date

2-2-09

Comments: This is not an appropriate location for a "bar." It has no business located in a historical district. This neighborhood does not need more traffic, drunks, and advances. This bar will bring more crimes and destruction of property to the residents of this neighborhood. Do not grant the "bar" zoning and help preserve this neighborhood.

☐ I am in favor
☒ Object

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Steve Rye,}

P. O. Box 1088

Austin, TX 78767-8810